

### **REMARKS**

Applicant has carefully reviewed the Office Action dated July 18, 2007. Applicant has amended Claims 1, 11 and 15 to more clearly point out the present inventive concept. Reconsideration and favorable action is respectfully requested.

Applicant notes with appreciation the Examiner's indication that the objection to the abstract has been withdrawn and that the § 104 rejection has also been withdrawn.

The Examiner had made some comments in the response to Applicant's arguments regarding certain aspects of the claims being broader than the arguments Applicant had set forth. Applicant has amended the claims in attempt to correct such.

In paragraph 10 of the Examiner's remarks, the Examiner indicated that the claims in particular do not recite the concept of detaching and traversing. However, Claim 8, for example, clearly sets forth that a segment is detached and then a path is traversed with this segment about the stationary portion. Applicant believes that the claims clearly support these type of arguments. Applicant would appreciate some clarification on the Examiner's comments. The Examiner in paragraph 11 further states that a character that partly moves as a result of the operation of superposition and transparency fulfill this limitation. It seems that the Examiner is of the opinion that the fact a character is differentiated from a progress indication meets limitations of this aspect of Applicant's invention. Applicant does not agree with this interpretation.

With respect to paragraph 12 of the Examiner's arguments, Applicant believes that the Examiner is interpreting the control signal as being provided by a source other than the broadcast itself. Applicant believes that this is incorrect with the then existing language. Hopefully, the amendments to the claims clarify that the control signal is part of the broadcast. As such, Applicant's prior remarks are believed to be sufficient for the purposes of this distinction. Further, with respect to paragraph 13, it appears that the Examiner is viewing the embodiment of Fig. 16 as meeting the limitations of Claim 15. However, the optical portion that is sensed is that

associated with the embodiment of Fig. 12. Thus, it is not the wand or barcode that is being referred to but, rather the video sensor.

After reviewing the Examiner's comments with respect to the way in which the visual cue is presented, Applicant believes that the Examiner is interpreting the visual cue as being "part of the broadcast presentation" after the broadcast presentation is received. The language was drafted to refer to the visual cue as being a portion of the broadcast which indicates that it is a part of it before the broadcast is sent over the broadcast network. The claims have been clarified as to that point. Clearly, the disclosure of *Wagner* provides the animated character in order to notify the user to do something. If content such as a website is sent to the user in the VBI, then the program at the set top box will indicate this to the user with a visual cue. There is no visual cue sent as part of the broadcast and Applicant contends that this is not "part of the broadcast" other than the fact that it is displayed to the user. Therefore, the display may in fact utilize the broadcast information in conjunction with and superimposed over the display. However, Applicant has clarified the claims and the distinction is that the visual cue is sent over the broadcast network in close association with the control signal. Applicant believes this distinction should clarify the claims and Applicant believes that this may be the issue that is barring the Examiner from allowing these claims.

Claims 1-11, 15-20 and 38 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. This rejection is respectfully traversed with respect to the claims as amended. The Examiner has indicated that Claims 11 and 15 are at odds with Claim 1. However, Applicant believes that Claim 1 has been clarified and also Claims 11 and 15 have been clarified. Applicant believes that the amendments to the claims now overcome the 35 U.S.C. § 112 rejection, the withdrawal of which is respectfully requested.

The Examiner has continued to maintain the rejection of claims 1-3, 6-8, 10-11 and 15-20 under 35 U.S.C. § 102(e) as being anticipated by *Wagner et al.* This rejection is respectfully traversed with respect to the amended claims.

As noted herein above, Applicant believes that the primary issue is with respect to the visual cue described in *Wagner*, which visual cue is one that is controlled at the desktop.

Basically, information is received such as web content and then a notification is provided for many different reasons. The notification can be that some content has been received, the notification can be that the user is coming close to the end of a commercial or the beginning of a commercial. This information is superimposed over a display and, in fact, could be utilized in conjunction with the viewing of interactive content that is generated at the set top box. Applicant believes the claims as amended clarify this aspect and, as such, Applicant believes that the 35 U.S.C. § 102(e) rejection with respect to Claims 1-3, 6-8, 10, 11 and 15-20 is overcome and therefore respectfully requests the withdrawal of such.

The remaining claims have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Wagner*. Applicant notes, for the same reasons described herein above and in previous response, that this rejection is overcome and respectfully request the withdrawal of such.

Applicant has now made an earnest attempt in order to place this case in condition for allowance. For the reasons stated above, Applicant respectfully requests full allowance of the claims as amended. Please charge any additional fees or deficiencies in fees or credit any overpayment to Deposit Account No. 20-0780/PHLY-25,509 of HOWISON & ARNOTT, L.L.P.

Respectfully submitted,  
HOWISON & ARNOTT, L.L.P.  
Attorneys for Applicant

/Gregory M. Howison, Reg. # 30,646/  
Gregory M. Howison  
Registration No. 30,646

GMH/dd

P.O. Box 741715  
Dallas, Texas 75374-1715  
Tel: 972-479-0462  
Fax: 972-479-0464  
October 30, 2007